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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/763,775	02/26/2001		10910/3	6334
757	7590	05/19/2005	EXAMINER	
BRINKS HOFER GILSON & LIONE P.O. BOX 10395 CHICAGO, IL 60610			WOO, RICHARD SUKYOON	
			ART UNIT	PAPER NUMBER
			3639	

DATE MAILED: 05/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/763,775

Applicant(s)

TSUTSUI

Examiner

Richard Woo

Art Unit

3639

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 07 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-39 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Response to Arguments*

- 1) Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

### *Claim Rejections - 35 USC § 103*

- 2) The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

- 3) Claims 1-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Korpela (US 6,311,054) in view of Tobita et al. (US 6,694,133).

W.R.T. Claim 1:

Korpela discloses a system comprising:

a user information table for storing information regarding a user of each radio portable terminal (see col. 1, line 43 – col. 2, line 38; see Figs. 1-2);

a provider information table for storing information regarding a provider of each application (see Id.);

a payment-status management table for managing the status of payment of a predetermined usage fee (col. 3, lines 19-45);

Art Unit: 3639

a detection section for detecting the status of usage of each application (see Figs. 1-4; col. 3, lines 8-45; col. 4, line 37 – col. 6, line 41);

a usage-status management table for storing the usage status (see Id.); and

a computation section for calculating and outputting a fee to be paid for each provider stored in the provider information table, on the basis of a ground total of usage fees made by the payment-status management table and the usage status (see Supra columns).

However, Korpela does not expressly disclose the system including the computation section for calculating and outputting a license fee to be paid for each provider.

Tobita et al. is cited to show that a company that uses an image or application, which is protected under the copyright (or patent rights), should pay a copyright fee for usage of the image or application to a copyright holder (col. 1, lines 12-33).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to calculate and output the license fee to be paid for each copyright or patent holder, as taught by Tobita et al., for the purpose of distributing the copyrighted material to the subscriber without copyright infringement.

Art Unit: 3639

W.R.T. Claim 2: The modified system of Korpela further discloses the system, wherein the detection section detects the application usage status on an application-by – application basis, and the usage-status management table stores the application usage status on an application-by-application basis; and the computation section includes:

an allotting section for allotting a portion of the ground total usage fees made by the payment-status management table, as a ground total of license fees to be paid to the providers; and

a distribution section for distributing and outputting, from the allotted ground total of license fess, a license fee to be paid for the provider of each application, in accordance with the usage status (see col. 1, line 43 – col. 2, line 38; col. 3, lines 8-45; col. 4, line 37 – col. 6, line 41; Figs. 1-4 in Korpela);

W.R.T. Claim 3: The modified system of Korpela further discloses the system, wherein the detection section detects the application usage status on an application-by – application basis, and the usage-status management table stores the application usage status on an application-by-application basis; and the computation section includes:

an allotting section for allotting a portion of the ground total usage fees made by the payment-status management table, as a ground total of license fees to be paid to the providers;

a distribution section for distributing and outputting, from the allotted ground total of license fess, a license fee to be paid for the provider of each application, in accordance with the usage status; and

Art Unit: 3639

a calculation section for summing provider by provider the license fees distributed and output with respect to all the users (see Supra Figs. and columns in Korpela);

W.R.T. Claim 4: The modified system of Korpela further discloses the system, wherein the detection section counts a download count of the application in a predetermined period, and the usage-status management table stores the counted download count as a usage status; and the computation section calculates the license fee on the basis of the download count (see Id.);

W.R.T. Claim 5: The modified system of Korpela further discloses the system, wherein the detection section detects an execution time of the application on the terminal, and the usage-status management table stores the detected execution time as a usage status; and the computation section calculates the license fee on the basis of the execution time (see col. 1, line 43 – col. 2, line 38; col. 3, lines 8-45; col. 4, line 37 – col. 6, line 41; Figs. 1-4 in Korpela);

W.R.T. Claim 6: The modified system of Korpela further discloses the system, wherein the detection section regards as the execution time a difference between a time of receipt from the terminal of a notification indicating start of the application and a time of receipt from the terminal of a notification indicating end of the application (see Id.);

W.R.T. Claim 7: The modified system of Korpela further discloses the system, wherein the detection section detects an activation count of the application on the terminal, and the usage-status management table stores the detected activation count as a usage

Art Unit: 3639

status; and the computation section calculates the license fee on the basis of the activation count (see Supra Figs. and columns);

W.R.T. Claim 8: The modified system of Korpela further discloses the system, wherein the detection section counts point number with which the user voted for the application, and the usage-status management table stores the counted point number as a usage status; and the computation section calculates the license fee on the basis of the point number (see Id.);

W.R.T. Claim 9: The modified system of Korpela further discloses the system, wherein an upper limit is provided for points that the user uses in a predetermined period, and an invalidating section is provided in order to invalidate a portion of the points exceeding the upper limit (see col. 1, line 43 – col. 2, line 38; col. 3, lines 8-45; col. 4, line 37 – col. 6, line 41; Figs. 1-4);

W.R.T. Claim 10: The modified system of Korpela further discloses the system, wherein a grasping section for grasping an application for which the user performs point voting; and a provision section for providing an ID of the grasped application to a predetermined terminal in response to the user request (see Id.);

W.R.T. Claim 11: The modified system of Korpela further discloses the system, wherein the grasping section grasps, as the application for which the user performs point voting, an application which was downloaded by the user in a predetermined period (see Supra Figs. and columns);

W.R.T. Claim 12: The modified system of Korpela further discloses the system, wherein the grasping section grasps, as the application for which the user performs point voting,

Art Unit: 3639

an application which was activated by the user in a predetermined period (see col. 1, line 43 – col. 2, line 38; col. 3, lines 8-45; col. 4, line 37 – col. 6, line 41; Figs. 1-4);

W.R.T. Claim 13: The modified system of Korpela further discloses the system, wherein the grasping section grasps, as the application for which the user performs point voting, an application for which the user performed point voting in a predetermined period (see Id.);

W.R.T. Claim 14: The modified system of Korpela further discloses the system, wherein the detection section detects the usage status through receipt of a point number with which the user voted for each application in a predetermined period; and a judgment section is provided which judges that the user performs point voting for the application only when points contained in the received point number are for an application which was downloaded by the user in a predetermined point-input effective period (see Supra Figs. and columns);

W.R.T. Claim 15: The modified system of Korpela further discloses the system, further including:

- a selection section for forcing the user to select an application;

- a judgment section for judging on a user-by-user basis whether the user performs point voting for the selected application; and

- an error transmission section (see col. 1, line 43 – col. 2, line 38; col. 3, lines 8-45; col. 4, line 37 – col. 6, line 41; Figs. 1-4);

W.R.T. Claim 16: The modified system of Korpela further discloses the system, wherein the detection section detects at least two among the group having: a download count of



Art Unit: 3639

the application in a predetermined period, an activation count of the application on the terminal, an execution time of the application on the terminal, and a point number; the usage-status management table stores as parameters at least two detection values; and the computation section calculates the license fee on the basis of a predetermined calculation formula combined with the at least two parameters (see *Id.*);

W.R.T. Claim 17: The modified system of Korpela further discloses the system including:

- a communication section for performing data communication with an internet terminal; and

- a search/output section for searching the application in response to the request (see *Supra* Figs. and columns);

W.R.T. Claim 18: The modified system of Korpela further discloses the system including a mail transmission section (see col. 1, line 43 – col. 2, line 38; col. 3, lines 8-45; col. 4, line 37 – col. 6, line 41; Figs. 1-4);

W.R.T. Claim 19: The modified system of Korpela further discloses the system including a screen generation section (see *Id.*);

W.R.T. Claim 20: The modified system of Korpela further discloses the system including a payable amount output section (see *Supra* columns);

W.R.T. Claim 21: The modified system of Korpela further discloses the system, wherein the payable amount output section includes:

- a totaling section for totaling the license fees; and

Art Unit: 3639

an output section for outputting the totaled license fees as a payable license fee (see col. 1, line 43 – col. 2, line 38; col. 3, lines 8-45; col. 4, line 37 – col. 6, line 41; Figs. 1-4);

W.R.T. Claim 22: The modified system of Korpela further discloses the system, wherein the payment status of each user is stored in the respective table (see Id.);

W.R.T. Claim 23: The modified system of Korpela further discloses the system, wherein a total of usage fees paid by each user is stored in the payment-status management table (see Supra Figs. and columns);

W.R.T. Claim 24: The modified system of Korpela further discloses the system, wherein the usage fee is constant among all users (see col. 1, line 43 – col. 2, line 38; col. 3, lines 8-45; col. 4, line 37 – col. 6, line 41; Figs. 1-4);

W.R.T. Claim 25: The modified system of Korpela further discloses the system, wherein the usage fee is constant within each of user groups into which users are classified in accordance with predetermined criteria (see Id.);

W.R.T. Claim 26: The modified system of Korpela further discloses the system, wherein the detection section counts a download count of the application; and a prohibition control section prohibits a user to download the application over a predetermined upper limit (see Supra Figs. and columns);

W.R.T. Claim 27: The modified system of Korpela further discloses the system, wherein the detection section detects an execution time of the application; and a prohibition control section prohibits a user to download the application over a predetermined upper

Art Unit: 3639

limit (see col. 1, line 43 – col. 2, line 38; col. 3, lines 8-45; col. 4, line 37 – col. 6, line 41; Figs. 1-4);

W.R.T. Claim 28: The modified system of Korpela further discloses the system, wherein the detection section counts an activation count of the application; and a prohibition control section prohibits a user to download the application over a predetermined upper limit (see *Id.*);

W.R.T. Claim 29: The modified system of Korpela further discloses the system, wherein the application includes a program for displaying on the terminal a point input interface for enabling the user to perform point voting; and the detection section detects the usage status by receiving via the Internet a point number (see *Supra* Figs. and columns);

W.R.T. Claim 30: The modified system of Korpela further discloses the system, wherein the detection section detects the usage status through receipt of a point number with which the user voted for each application in a predetermined period; and a judgment section is provided which judges that the user performs point voting for the application (see col. 1, line 43 – col. 2, line 38; col. 3, lines 8-45; col. 4, line 37 – col. 6, line 41; Figs. 1-4);

W.R.T. Claim 31: The modified system of Korpela further discloses the system including:

- a server application storage section;

- a common database commonly accessed by the plurality of server application;

and

Art Unit: 3639

a limiting section for limiting an accessible table area of the common database for each server application (see Id.);

W.R.T. Claim 32: The modified system of Korpela further discloses the system including:

a server application storage section;

a common database commonly accessed by the plurality of server application;

and

a limiting section for limiting an accessible table area of the common database for each application provider (see Id.);

W.R.T. Claim 33: The modified system of Korpela further discloses the system including:

a server application storage section; and

a common process interface which accesses data stored in the user information table, wherein the server application accesses the user information table (see col. 1, line 43 – col. 2, line 38; col. 3, lines 8-45; col. 4, line 37 – col. 6, line 41; Figs. 1-4).

W.R.T. Claim 34:

Korpela discloses a method comprising the steps of:

distributing an application to a radio portable terminal in accordance with a download request from the terminal, wherein the terminal is capable of utilizing an application downloaded via an internet and a radio communications network (see Fig. 1);

Art Unit: 3639

storing the status of payment of a predetermined usage fee which the user of each terminal pays for a predetermined period (see col. 1, line 43 – col. 2, line 38; col. 3, lines 8-45; col. 4, line 37 – col. 6, line 41; Figs. 1-4);

detecting the status of usage of the application;

storing the detected usage status; and

calculating a fee to be paid for each provider stored in a provider information table, on the basis of the stored ground total of usage fees and the stored usage status and for outputting the fee (see Supra Claim 1).

However, Korpela does not expressly disclose the method including: calculating and outputting a license fee to be paid for each provider.

Tobita et al. is cited to show that a company that uses an image or application, which is protected under the copyright (or patent rights), should pay a copyright fee for usage of the image or application to a copyright holder (col. 1, lines 12-33).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to calculate and output the license fee to be paid for each copyright or patent holder, as taught by Tobita et al., for the purpose of distributing the copyrighted material to the subscriber without copyright infringement.

Art Unit: 3639

W.R.T. Claim 35: The modified method of Korpela further discloses the method, wherein the step of detecting detects the application usage status on an application-by-application basis; the step of storing stores the application usage status on an application-by-application basis; and

the step of calculating includes:

a step for allotting a portion of the stored ground total of usage fees as a ground total of license fees to be paid to the providers; and

a step for distributing and outputting, from the allotted ground total of license fees, a license fee to be paid for the provider of each application, in accordance with the stored usage status (see col. 1, line 43 – col. 2, line 38; col. 3, lines 8-45; col. 4, line 37 – col. 6, line 41; Figs. 1-4);

W.R.T. Claim 36: The modified method of Korpela further discloses the method, wherein the step of detecting detects the application usage status on an application-by-application basis; the step of storing stores the application usage status on an application-by-application basis; and

the step of calculating includes:

a step for allotting a portion of the usage fees paid by the user as a license fee;

a step for distributing and outputting, from the allotted license fee, in accordance with the stored usage status; and

a step of summing provider by provider the license fees distributed and output with respect to all the users in order to obtain a license fee to be paid to each provider (see Id.);

Art Unit: 3639

W.R.T. Claims 37-39: The modified medium of Korpela discloses the medium to perform the method claims 34-36, respectively.

### ***Conclusion***

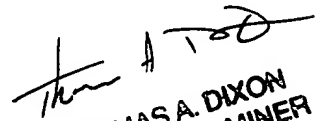
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard Woo whose telephone number is 571-272-6813. The examiner can normally be reached on Monday-Friday from 8:30 AM -5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on 571-272-6812. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Richard Woo  
Patent Examiner  
Art Unit 3639  
May 10, 2005



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PRIMARY EXAMINER